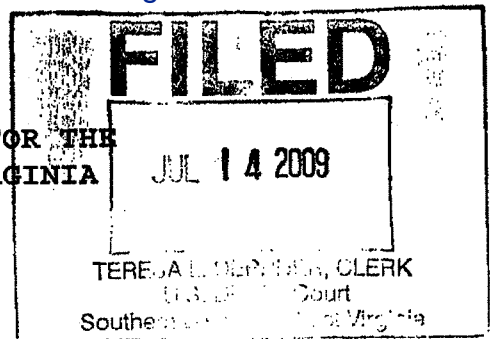


UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY GRAND JURY 2009
JULY 14, 2009 SESSION



UNITED STATES OF AMERICA

v.

CRIMINAL NO.

2:09-00167

18 U.S.C. § 922(g) (1)
18 U.S.C. § 924(a) (2)
18 U.S.C. § 924(l)
18 U.S.C. § 1343
18 U.S.C. § 1029(a) (2)
18 U.S.C. § 1028A

KENNETH L. NICKOSON

I N D I C T M E N T

The Grand Jury Charges:

COUNT ONE

1. On or about January 4, 2009, at or near Charleston, Kanawha County, West Virginia, and within the Southern District of West Virginia, defendant KENNETH L. NICKOSON did knowingly possess five firearms, to wit:

- a. a Harrington & Richardson Model P 20 gauge shotgun;
- b. a Marlin-Glenfield Model 60 .22 caliber rifle;
- c. a Savage Model 3D .22 caliber rifle;
- d. a Marlin 25 MN .22 caliber rifle;
- e. and a New England Firearms SBI 16 gauge shotgun;

in and affecting interstate commerce.

2. At the time defendant KENNETH L. NICKOSON possessed the aforesaid firearms, he had been convicted of a crime punishable by imprisonment for a term exceeding one year, as defined in 18 U.S.C. § 921(a)(20), that is:

- a. Convicted on or about May 18, 1987, in the Circuit Court of Kanawha County, West Virginia, of breaking and entering in violation of W. Va. Code § 61-3-12;
- b. Convicted on or about November 23, 1987, in the Circuit Court of Kanawha County, West Virginia, of forgery, in violation of W. Va. Code § 61-4-5;
- c. Convicted on or about October 4, 1989, in the Circuit Court of Kanawha County, West Virginia, of forgery, in violation of W. Va. Code § 61-4-5;
- d. Convicted on or about March 26, 1992, in the Circuit Court of Fayette County, West Virginia, of obtaining money under false pretenses, in violation of W. Va. Code § 61-3-24;
- e. Convicted on or about August 20, 2001, in the United States District Court of the Southern District of West Virginia, of possessing a firearm after being convicted of a crime punishable by a term of imprisonment exceeding one year, in violation of Title 18, United States Code, Sections 922 (g) (1) and 924 (a) (2).

In violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

COUNT TWO

1. On or about January 18, 2009, at or near South Charleston, Kanawha County, West Virginia, and within the Southern District of West Virginia, defendant KENNETH L. NICKOSON knowingly possessed two firearms, that is, a Remington 7400 30-06 caliber rifle and a Remington 700 .223 caliber rifle, in and affecting interstate commerce.

2. At the time defendant KENNETH L. NICKOSON possessed the aforesaid firearms, he had been convicted of a crime punishable by imprisonment for a term exceeding one year, as defined in 18 U.S.C. § 921(a)(20), that is:

- a. Convicted on or about May 18, 1987, in the Circuit Court of Kanawha County, West Virginia, of breaking and entering in violation of W. Va. Code § 61-3-12;
- b. Convicted on or about November 23, 1987, in the Circuit Court of Kanawha County, West Virginia, of forgery, in violation of W. Va. Code § 61-4-5;
- c. Convicted on or about October 4, 1989, in the Circuit Court of Kanawha County, West Virginia, of forgery, in violation of W. Va. Code § 61-4-5;
- d. Convicted on or about March 26, 1992, in the Circuit Court of Fayette County, West Virginia, of obtaining money under false pretenses, in violation of W. Va. Code § 61-3-24;

e. Convicted on or about August 20, 2001, in the United States District Court of the Southern District of West Virginia, of possessing a firearm after being convicted of a crime punishable by a term of imprisonment exceeding one year, in violation of Title 18, United States Code, Sections 922 (g) (1) and 924 (a) (2).

In violation of Title 18, United States Code, Sections 922(g) (1) and 924(a) (2).

COUNT THREE

On or about January 18, 2009, at or near Blount, Kanawha County, West Virginia, and within the Southern District of West Virginia, defendant KENNETH L. NICKOSON knowingly possessed two firearms that had been stolen, that is, a Remington 7400 30-06 caliber rifle and a Remington 700 .223 caliber rifle, which were moving as, and were a part of, and which had moved in, interstate and foreign commerce.

In violation of Title 18, United States Code, Section 924(1).

COUNT FOUR

1. On or about January 19, 2009, at or near South Charleston, Kanawha County, West Virginia, and within the Southern District of West Virginia, defendant KENNETH L. NICKOSON knowingly possessed a firearm, that is, a Ruger M77 7mm Mark II rifle, in and affecting interstate commerce.

2. At the time defendant KENNETH L. NICKOSON possessed the aforesaid firearms, he had been convicted of a crime punishable by imprisonment for a term exceeding one year, as defined in 18 U.S.C. § 921(a)(20), that is:

- a. Convicted on or about May 18, 1987, in the Circuit Court of Kanawha County, West Virginia, of breaking and entering in violation of W. Va. Code § 61-3-12;
- b. Convicted on or about November 23, 1987, in the Circuit Court of Kanawha County, West Virginia, of forgery, in violation of W. Va. Code § 61-4-5;
- c. Convicted on or about October 4, 1989, in the Circuit Court of Kanawha County, West Virginia, of forgery, in violation of W. Va. Code § 61-4-5;
- d. Convicted on or about March 26, 1992, in the Circuit Court of Fayette County, West Virginia, of obtaining money under false pretenses, in violation of W. Va. Code § 61-3-24;
- e. Convicted on or about August 20, 2001, in the

United States District Court of the Southern District of West Virginia, of possessing a firearm after being convicted of a crime punishable by a term of imprisonment exceeding one year, in violation of Title 18, United States Code, Sections 922 (g) (1) and 924 (a) (2)

In violation of Title 18, United States Code, Sections 922(g) (1) and 924(a) (2).

COUNTS FIVE THROUGH TWELVE

(Wire Fraud)

1. At all relevant times in the indictment, defendant KENNETH L. NICKOSON resided in Cabin Creek, West Virginia and within the Southern District of West Virginia.

The Scheme

2. From on or about September 11, 2008 at or near Charleston, Cabin Creek, Hernshaw and Chelyan, Kanawha County, West Virginia and at or near Smithers, Fayette County, West Virginia, and within the Southern District of West Virginia and elsewhere, defendant KENNETH L. NICKOSON did knowingly devise and intend to devise a scheme and artifice 1) to defraud, which involved misrepresentation and concealment of material fact, and 2) to obtain money and property, by means of materially false and fraudulent pretenses, representations and promises.

Manner and Means of the Scheme

3. It was part of the scheme that defendant KENNETH L. NICKOSON would and did obtain the name, signature, and other means of identification of another individual (hereinafter "first known person") by stealing a wallet, which contained a Chase VISA credit card (account number XXXX-XXXX-XXXX-1566) and a Branch Bank and Trust ("BB&T") VISA debit card (account number XXXX-XXXX-XXXX-2332). The wallet, containing the above listed cards, was removed from the first known person's purse.

4. It was further a part of the scheme that defendant KENNETH L. NICKOSON would and did obtain and use the debit/credit cards to buy goods, merchandise and other items of value in Kanawha and Fayette Counties, resulting in losses of over \$1000 dollars to various people, businesses, banks, and other entities.

5. The first known person did not give defendant KENNETH L. NICKOSON permission to use her means of identification.

Use of Wire Communications

6. On or about September 11, 2008, at or near Charleston, Cabin Creek, Hernshaw, Chelyan, Kanawha County and Smithers, Fayette County, West Virginia, and within the Southern District of West Virginia and elsewhere, for the purpose of executing the above-described scheme, defendant KENNETH L. NICKOSON did knowingly transmit and cause to be transmitted by means of wire communication in interstate commerce certain writings, signals, pictures and sounds, that is, the following transactions and authorizations to purchase goods, services and merchandise which authorizations resulted in the disposition of goods, credit or services by the following merchants in the following amounts and value:

<u>Count</u>	<u>Debit/ Credit Card</u>	<u>Merchant and Location of Wire Transmission</u>	<u>Approximate Amount of Use</u>
FIVE	Chase	Dollar General in Montgomery, WV	\$173.71
SIX	Chase	Exxon in Smithers, WV	\$ 34.31
SEVEN	Chase	Kroger in Smithers, WV	\$144.17
EIGHT	Chase	Foodland in Cheylan, WV	\$ 94.41

NINE	Chase	Lowes in Charleston (Kanawha City), WV	\$422.94
TEN	Chase	Exxon in Charleston, WV	\$ 63.97
ELEVEN	BB&T	Go Mart in Cabin Creek, WV	\$ 55.15
TWELVE	BB&T	Marathon in Hernshaw, WV	\$ 46.41

In violation of Title 18, United States Code, Section 1343.

COUNT THIRTEEN

(Access Device Fraud)

1. The Grand Jury re-alleges Paragraphs One through Six of Count Five of this Indictment as if fully set forth herein.

2. On or about September 11, 2008, at or near Charleston, Cabin Creek, and Hernshaw, Kanawha County, West Virginia and at or near Smithers, Fayette County, West Virginia, and within the Southern District of West Virginia and elsewhere, defendant KENNETH L. NICKOSON did knowingly and, with the intent to defraud, use and cause the use of one or more unauthorized access devices affecting interstate commerce, and by such conduct obtained things of value aggregating more than \$1,000 within a one year period.

In violation of Title 18, United States Code, Section 1029(a)(2).

COUNTS FOURTEEN THROUGH TWENTY ONE

(Aggravated Identity Theft)

1. The Grand Jury re-alleges Paragraphs One through Six of Count Five of this Indictment as if fully set forth herein.


2. On or about September 11, 2008, at or near Charleston, Cabin Creek, and Hernshaw, Kanawha County, West Virginia and at or near Smithers, Fayette County, West Virginia, and within the Southern District of West Virginia, defendant KENNETH L. NICKOSON did knowingly transfer, possess and use, without lawful authority, a means of identification of the first known person, during and in relation to violations of 18 U.S.C. §§ 1343 and 1029(a)(2), that is, wire and access device fraud as listed below:

<u>Count</u>	<u>Debit/ Credit Card</u>	<u>Merchant and Location of Wire Transmission</u>	<u>Approximate Amount of Use</u>
FOURTEEN	Chase	Dollar General in Montgomery, WV	\$173.71
FIFTEEN	Chase	Exxon in Smithers, WV	\$ 34.31
SIXTEEN	Chase	Kroger in Smithers, WV	\$144.17
SEVENTEEN	Chase	Foodland in Cheylan, WV	\$ 94.41
EIGHTEEN	Chase	Lowe's in Charleston (Kanawha City), WV	\$422.94
NINETEEN	Chase	Exxon in Charleston WV	\$ 63.97
TWENTY	BB&T	Go Mart in Cabin Creek, WV	\$ 55.15
TWENTY ONE	BB&T	Marathon in Hernshaw WV	\$ 46.41

In violation of Title 18, United States Code, Section 1028A.

CHARLES T. MILLER
United States Attorney

By:


ERIK S. GOES

Assistant United States Attorney